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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

THOMAS CURTIS,
Plaintiff(s),
v.
HARBOR ISLAND,
Defendant(s).

Case No.: 2:20-cv-02066-APG-NJK
REPORT AND RECOMMENDATION

13 District courts have the authority to dismiss cases *sua sponte* without notice to the plaintiff
14 when he “cannot possibly win relief.” *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th
15 Cir. 1988).¹ A complaint should be dismissed for failure to state a claim upon which relief may
16 be granted “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his
17 claims that would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992).
18 A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or
19 delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Moreover, “a
20 finding of factual frivolousness is appropriate when the facts alleged rise to the level of the
21 irrational or the wholly incredible, whether or not there are judicially noticeable facts available to
22 contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). When a court dismisses a
23 complaint, the plaintiff should be given leave to amend with directions as to curing its deficiencies,
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¹ When a plaintiff seeks to proceed *in forma pauperis*, courts screen the complaint to ensure that a claim for relief has been stated. 28 U.S.C. § 1915(e). Here, Plaintiff filed an incomplete application to proceed *in forma pauperis*. See Docket No. 1. Given the Court’s separate ability to dismiss the complaint pursuant to the authority cited above, however, the Court need not address whether Plaintiff qualifies to proceed *in forma pauperis* before dismissing his case.

1 unless it is clear from the face of the complaint that the deficiencies could not be cured by
2 amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).²

3 Plaintiff's complaint consists of three sentences, alleging an altercation with an apartment
4 security guard regarding groceries that were placed on a wall. *See* Docket No. 1-1 at 1. Plaintiff
5 asserts that these allegations show violations of United Nations treaties regarding bio terrorism
6 and nuclear weapon use. *See id.* Plaintiff seeks \$1,000,000 in damages. *See id.* at 3. The complaint
7 is frivolous and delusional, and does not state a claim upon which relief can be granted.³

8 Accordingly, the undersigned **RECOMMENDS** that Plaintiff's complaint be
9 **DISMISSED** with prejudice.⁴

10 Dated: December 16, 2020

11 
12 Nancy J. Koppe
13 United States Magistrate Judge

14 **NOTICE**

15 This report and recommendation is submitted to the United States District Judge assigned
16 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
17 recommendation must file a written objection supported by points and authorities within fourteen
18 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
19 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
20 F.2d 1153, 1157 (9th Cir. 1991).

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22 ² Courts have a duty to construe *pro se* filings liberally. *E.g., Blaisdell v. Frappiea*, 729
23 F.3d 1237, 1241 (9th Cir. 2013).

24 ³ Plaintiff does not bring a simple assault claim against the security guard. Even if he had
25 done so, there would likely be no subject matter jurisdiction to hear such a claim.

26 ⁴ Plaintiff has previously filed suit that resulted in a dismissal with prejudice as being
27 delusional. Case No. 2:16-cv-01586. Plaintiff has more recently filed numerous cases in this
28 courthouse, in addition to this case. *See* Case Nos. 2:20-cv-2260, 2:20-cv-02090, 2:20-cv-2094,
2:20-cv-2127, 2:20-cv-02132, 2:20-cv-2133, 2:20-cv-2134, 2:20-cv-2252. Some of those cases
may also be dismissed as delusional. *E.g.,* Case No. 2:20-cv-02094, Docket No. 3 (report and
recommendation). Plaintiff is cautioned that filing frivolous cases may result in a finding that he
is a vexatious litigant.